

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan.  (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)  Bond Charge Phase

**ADMINISTRATIVE LAW JUDGE'S RULING**

On July 23, 2002, in preparation for evidentiary hearings, Administrative Law Judge Timothy Sullivan presided over a prehearing conference (PHC) to address procedural issues and to clarify the scope of the upcoming hearings. A number of issues were resolved at the PHC, but several issues were not resolved. This ruling will resolve open issues and summarize the highlights of the prehearing conference.

**Clarification of Scope**

A major issue left unresolved at the PHC was the question of whether this proceeding would address the bond charges for 2003 alone or for 2003 and 2004.

Decision (D.) 02-02-052 states that:

“The role of the Commission under AB1X, however, is to establish utility charges to recover costs of authorized DWR activities once the revenue requirement has been determined by DWR, at the time they are needed.”

This proceeding will focus on the adoption of bond charges for the year 2003 alone. Nevertheless, a possible outcome of this proceeding is the adoption of a methodology for setting bond charges that would be used until replaced through another Commission decision. Before the Commission adopts such a methodology, it is reasonable to acquire information on whether and how bond revenue requirements and charges may vary over the first several years. Thus, the information provided by the Department of Water Resources (DWR) estimating the likely bond costs for 2004 is highly relevant to the record of this proceeding.

If this proceeding results in the adoption of a methodology for setting bond charges, the specific bond charges for future years would be set through subsequent Commission action. The determination of the exact 2004 bond charges, for example, could follow a determination by the DWR of a reasonable revenue requirement and some formal action by this Commission, such as the adoption of a resolution approving a compliance filing by utilities. Thus, parties need not propose bond charge rates for 2004 at this time, but may use the estimated 2004 bond-related costs to illustrate the applicability of their proposed bond charge methodologies.

### **Case Management Issues**

Parties at the PHC stated that holding a workshop on Monday, July 29, 2002 would facilitate the conduct of the evidentiary hearings. I will revise the schedule accordingly. A workshop will take place on Monday, July 29, 2002 at

9:30 a.m. in the Commission's Training Room (entry on Golden Gate Avenue), 505 Van Ness Avenue, San Francisco. Evidentiary hearings will begin on Tuesday, July 30, 2002 at 9:30 a.m. in the Commission's Auditorium.

At the PHC, parties noted that this proceeding is closely linked to Rulemaking (R.) 02-01-011, which will determine policy issues associated with the responsibility of direct access customers for bond charges. Parties also explored the implications of this linkage for the management of this proceeding.

The Assigned Commissioner's Ruling of June 6, 2002 noted that there "will be coordination between the bond charge proceeding and the CRS proceeding as needed." Based on discussions with the responsible Commission staff, we clarify that R.02-01-011 will make the policy determination concerning whether and how direct access and departing load customers bear responsibility for the costs of financing these bonds. This proceeding, in contrast, will determine the bond charge rates and recovery mechanisms for raising the revenues needed to finance the bonds.

In addition, parties at the PHC noted that there was a policy dispute concerning the interpretation of a sentence in Section 80110 of the California Water Code, which states:

" . . . In no case shall the commission [California Public Utilities Commission] increase the electricity charges in effect on the date that the act that adds this section becomes effective for residential customers for existing baseline quantities or usage by those customers of up to 130 percent of existing baseline quantities, until such time as the department has recovered the costs of power it has procured for the electrical corporation's retail end use customers as provided in this division. . . "

Parties noted that the interpretation section was also under consideration in R.02-01-011, and asked direction on whether policy arguments concerning this issue should also be filed in this proceeding. Since the interpretation of this

clause is critical to determining the size of the bond charges and the methodology for setting such charges, policy arguments concerning how this statute applies to these issues should be made in the briefs filed in this proceeding. In addition, scenarios developed as part of the evidentiary hearings should clearly explore the implications of alternative policy interpretations for bond charge rates. Finally, if helpful to resolving issues in this proceeding, parties may incorporate by reference those portions of their briefs filed in R.02-01-011 relating to the interpretation of Section 80110.

Based on the above distinctions, parties to the PHC stated that the development of scenarios covering a range of rate recovery mechanisms applying to different groups of customers would permit the exploration of methodologies and permit the subsequent determination of bond charges through a simple compliance filing. In particular, such a compliance filing could implement the policy determinations reached in R.02-01-011. Thus, this proceeding will focus on the technical tasks of identifying the revenue requirement that this proceeding will recover through bond charges, how to calculate what the charges will be, and how to apply the charges. We will therefore develop a record that permits the adoption of a methodology to calculate bond charges applicable over the range of possible policy outcomes that may result from R.02-01-011.

Finally, parties noted that based on the clarification of the relationship between proceedings, irrelevant testimony would need to be withdrawn or struck. Parties should identify expeditiously those sections of filed testimony no longer relevant to the scope of this proceeding. I will consider motions to withdraw or strike testimony before it is accepted into the record of the proceeding.

### **Procedures for Resolving Discovery Issues**

Several parties raised issues concerning access to information used by DWR in preparation of the testimony submitted in this proceeding. Discussions proved fruitful, with DWR agreeing to respond constructively to requests for information. In addition, the discussion recognized that information supporting the structure of the bond offering would assist the deliberations of this Commission in setting a bond charge.

Discussions also made clear that parties to this proceeding face a novel situation. Section 80110 of the California Water Code states:

“For purposes of this division and except as otherwise provided in this section, the Public Utility Commission’s authority as set forth in Section 451 of the Public Utilities Code shall apply, except any just and reasonable review under Section 451 shall be conducted and determined by the department. [Department of Water Resources]”

Thus, the responsibility for determining the reasonableness of the revenues required to finance the bonds rests with DWR. On the other hand, this Commission and parties to our proceeding require information to ensure that any bond charges adopted by this Commission are supported by facts. In the Rate Agreement, DWR has recognized that Commission processes require both its participation in our proceedings and the release of information:

“Section 7.2 Department Participation. Consistent with the limitations set forth in Water Code Section 80110, upon the request of the Commission, the Department will participate in any Commission proceedings, including providing witnesses, attending public hearings, and providing any other materials necessary to facilitate the Commission’s completion of its proceedings, taken in connection with the establishment of Power Charges or Bond Charges by the Commission.”

Recognizing that responsibility for determining the reasonableness of the revenue requirement needed to finance bonds rests with DWR but that the

Commission's determination of bond charges requires access to information by the Commission and parties to this proceeding, parties should make special efforts to resolve discovery disputes through discussion. If, however, parties are unable to settle a particular dispute, the Law and Motion Judge, will resolve particular discovery disputes.

**IT IS RULED** that:

1. The scope of this proceeding is clarified as follows: A goal of this proceeding is to develop a mechanism for setting bond charges that recovers the 2003 revenue requirement necessary to pay Department of Water Resources' bond-related costs. In addition, this proceeding will consider the adoption of a methodology for setting bond charges that will apply until revised by subsequent Commission action. This scope is in no way inconsistent with the Assigned Commissioner's Ruling of June 6, 2002, which initiated the bond charge phase of this proceeding.
2. We clarify that parties in this proceeding should address in briefs the interpretation and applicability of Section 80110 of the California Water Code to actions by this Commission. We note that Rulemaking (R.) 02-0-011 is addressing this issue and parties may incorporate by reference those portions of briefs filed in R.02-01-011 that pertain to this issue.
3. The Commission shall hold a workshop on Monday, July 29, 2002 starting at 9:30 a.m. at the Commission Training Room (entry on Golden Gate Avenue), 505 Van Ness Avenue, San Francisco.
4. Evidentiary hearings shall commence on Tuesday, July 30, 2002 at 9:30 a.m. in the Commission's Auditorium.
5. Concerning the management of this proceeding, we expect to resolve issues relating to bond charges through a single-set of hearings and a single decision that permits the determination of bond surcharge rates. The applicable rates,

however, may require revision based on the final determinations reached in R.02-01-011 or in light of more detailed information concerning bond costs.

6. Based on the clarification of the scope of this proceeding, sponsors of testimony should prepare motions to withdraw those portions of their testimony that pertain to R.02-01-011.

7. Parties shall resolve discovery disputes using the procedures identified herein.

8. The service list for Application 00-11-038, et al., shall be used for the Bond Charge Phase of this proceeding

Dated July 26, 2002, at San Francisco, California.

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling on all parties of record in this proceeding or their attorneys of record.

Dated July 26, 2002, at San Francisco, California.

/s/ ERLINDA PULMANO  
Erlinda Pulmano

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.